

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

### EXTRAORDINARY

### No. 2

#### GOVERNMENT OF GOA

Department of Home

Home — General Division

#### Notification

9/17/94-HD(G)

In exercise of the powers conferred by clauses (5) (7) and (27) of section 59 of the Prisons Act, 1894 (Central Act IX of 1894), and of all other powers enabling it in that behalf, the Government of Goa hereby makes the following rules, namely:—

#### Statutory Rules

1. *Short title and commencement*:— (1) These rules may be called the Goa Prisons (Review of Sentences) Rules, 1997.

(2) They shall come into force at once.

2. *Definitions*:— In these rules, unless the context otherwise requires,—

(a) "Act" means the Prisons Act, 1894 (Central Act IX of 1894);

(b) "Advisory Board" means the Board constituted by the Government under rule 3 of these Rule;

(c) "Assistant Jailor" means the next executive officer to the Jailor;

(d) "Classification Committee" means the Work Assignment Committee constituted at a Prison under rule 14 of the Goa, Daman & Diu Prisons (Employment of Prisoners) Rules, 1968;

(e) "Form" means a form appended to these rules;

(f) "Government" means the Government of Goa;

(g) "Imprisonment" includes imprisonment imposed by a Court in default of payment of fine;

(h) "Jailor" means the next immediate executive officer to the Superintendent;

(i) "Medical Officer" means the officer in charge of the sanitary administration of the prison at the Central Jail, Aguada;

(j) "Standing Medical Board" means the Board constituted by the Government for the purpose of these rules and consisting of the Dean, Goa Medical College, the Assistant Dean, Goa Medical College and any other Medical officer to be nominated by the Dean;

(k) "Superintendent" means the Superintendent of the Central Jail, Aguada.

3. *Constitution of Advisory Board*:— (1) With a view to reviewing from time to time and addressing how far a sentence has a salutary and reformatory influence with reference to the record of a prisoner, there shall be constituted an Advisory Board by the Government.

(2) The Advisory Board shall consist of the District & Sessions Judge, the District Magistrate, the Superintendent of Police, the Superintendent of Central Jail, Aguada, and three non-official members to be nominated by the Government. The District & Sessions Judge shall be the Chairman of the Advisory Board, and the Superintendent of Central Jail, Aguada, Goa, shall be its Member Secretary.

(3) The appointment of three nominated members under this rule shall be made for a period not exceeding three years, preferably from amongst:—

(a) Member of the State Legislature;

(b) Social Scientist or Social Worker interested in correctional work, in Prison Administration and in Prisoner's welfare generally: provided that, the Government may, at any time without assigning any reasons terminate the appointment of any nominated member before the expiry of the period of his appointment.

4. *Meetings of Advisory Board*:— (1) The Advisory Board shall meet every six months to review the sentences of convicted criminal prisoners sentenced to terms of imprisonment indicated in column 2 of the table below and shall, subject to the provisions of sub-rule (2), be submitted to the Advisory Board on completion of the period of imprisonment (inclusive of the periods of remissions earned), as indicated in column 3 of the table:—

TABLE

Category of prisoners	Terms of imprisonment	Completion of period of imprisonment
(1)	(2)	(3)
i) Women prisoners	3 years or more	On undergoing half of substantive sentences inclusive of remissions.
ii) Old and infirm prisoners	3 years or more	On undergoing half of substantive sentences inclusive of remissions.
iii) Prisoners other than those mentioned in clause (i) & (ii) above in respect of male and female prisoners.	5 years or more	On undergoing two third of substantive sentence inclusive of remissions.
iv) Prisoners sentenced to life imprisonment.	Imprisonment of life	On undergoing 14 years of actual substantive sentence in terms of section 433 A. Criminal Procedure Code 73 and on earning six years of remission.
v) Habitual offenders	5 years or more	On completion of two third of sentence including remission.

(2) Where any such convicted Criminal prisoner is found to be guilty or committing a prison offence for which he is awarded a major prison punishment within a period of one year before the date on which his case is due for submission to the Advisory Board of Review of sentences, his case shall not be submitted to the said Advisory Board for a period of six months after it is due for submission.

(3) *Category of cases:*— The cases of the following categories of prisoners shall not be brought before the Advisory Board for consideration of premature release.

(i) prisoners convicted of rape, murder, forgery, dacoity, terrorist crime, offences against the State, and prisoners sentenced under sections 224, 376, 396 to 400, 402, 467, 471, 472, 474, 489-A, 489-B and 489-D, 498-A of the Indian Penal Code, 1860 (Act No. XLV of 1860);

(ii) prisoners convicted of economic offences, black marketing, smuggling and Misuse of Power and Authority;

(iii) prisoners sentenced under the Prevention of Corruption Act, 1988 — the Immoral Traffic (Prevention) Act, 1956, the Drugs and Cosmetics Act, 1940 and Prevention of Food Adulteration Act, 1954.

6. *Maintenance of review file:*— There shall be maintained a Review file for each prisoner whose case is eligible for review. The file shall contain:—

(i) a copy of the Judgment or heads of charges;

(ii) the social history in Form - I;

(iii) initial classification sheet in Form - II and progress report in Form - III;

(iv) a report from the Superintendent as in Form - IV;

(v) a report from the Medical Officer about the physical and mental condition of the prisoner and his fitness for release;

(vi) a summary sheet in Form - V;

(vii) the opinion of the Superintendent of Police and the District Magistrate concerned, as the case may be;

(viii) the recommendation of the Advisory Board;

(ix) the Government order;

(x) a close-up sheet.

7. (i) On the admission of the convicted criminal prisoner whose case may become eligible for review, the Superintendent shall obtain a copy of the Judgment from the Court which passed the sentence.

(ii) If the original sentence is modified in appeal, the Superintendent shall obtain direct from the appellate Court concerned a copy of the Judgment, soon after the decision of the appellate Court is made known to him by the Court concerned.

(iii) In the case of prisoners sentenced by the Court Martial, the Superintendent shall obtain the information about the antecedents and characters together with brief statement of the offence from the Adjutant General of India. The Superintendent shall, in cases where a Court Martial does not record any Judgment, obtain all possible relevant information about the Ex-Military Prisoner from the authorities concerned.

(iv) On the admission of a convicted criminal prisoner whose case may become eligible for review, the Superintendent shall obtain a record of his character and antecedents from the Superintendent of Police of the concerned District.

(v) The Superintendent shall, in case of a prisoner who is a resident of the State but who has been convicted by a Court in any other State, obtain all relevant information as detailed above, from the authorities of the District in which the offender had lived and where the offence was committed.

8. (i) When a sentence is due for review the Superintendent shall, for the purpose of placing it before the Advisory Board, obtain definite recommendation in Form - VI for or against the premature release of the prisoner from the Superintendent of Police and the District Magistrate of the District, in which the prisoner is ordinarily residing as well as from the Superintendent of Police and the District Magistrate of the District, in which he was convicted.

(ii) The Superintendent shall, before the case of any prisoner is re-submitted for review to the Advisory Board, obtain fresh opinions of the Officers referred to sub-rule (1).

(iii) Provided that, if a District Magistrate and Superintendent of Police have once expressed a favourable opinion in a prisoner's case which is to be placed before the Advisory Board, he need not be consulted again in that case on subsequent occasions.

9. During the month preceding the month in which the meeting of the Advisory Board is fixed, the classification committee shall take an overall review of the progress made by a prisoner whose case is to be placed before the Advisory Board in re-shaping his individual and social behaviour and prepare a comprehensive progress report in Form - III, containing amongst other things, specific recommendations for or against the premature release of the prisoner for being placed before the Advisory Board.

10. (1) On the 15th February and 16th August since the last meeting, if any, of the Board, the Jailor shall with the help of the Asst. Jailor and the Clerk to whom the work has been

entrusted by the Superintendent prepare a statement of all convicted criminal prisoners whose sentences have become due for such review according to the provisions of the foregoing rules, and submit the statement to the Advisory Board.

(2) The Advisory Board shall on receipt of the statement under sub-rule (1) hold the meeting as soon as possible after the 31st March and 30th September, but not later than April and October every year to consider, with regard to each convict, the information placed before it.

11. The Advisory Board shall meet at the respective prisons to review the cases of convicted criminal prisoners coming within its scope in accordance with the provisions of these Rules.

12. The date of each meeting of the Advisory Board when fixed by the Chairman of the Advisory Board shall be communicated at least seven days before the meeting, by the SUPERINTENDENT of Prison to the Inspector General and, to the ex-official and non-official members of the Advisory Board.

13. (1) The Advisory Board shall consider the Social history of the prisoner, the circumstances of his criminal behaviour conduct in the prison, response to training and treatment, marked changes in habits, attitude and character, degree of criminality, health and mental condition and the possibility of his resettlement after release. The Advisory Board may also take into consideration such circumstances as were not before the Court when the sentence was awarded. The Advisory Board shall also consider the opinion of the Supdt. of Police and the District Magistrate. On the basis of such overall examination of the case, the Advisory Board may recommend deserving prisoners for premature release, either on specified conditions or unconditionally, after recording the reasons for the recommendations in every case.

(2) The Advisory Board shall not interview any prisoner, unless it has special reasons to see him (e.g. when release is proposed on the ground of infirmity) or to ask him pertinent questions in connection with his release.

(3) Where the Advisory Board, after consideration of a case, decides not to make any recommendations for premature release, it may order that the case shall be placed before it for review after such period not exceeding three years as it may specify in the Order. The Advisory Board may also recommend alternate measures in respect of treatment of the prisoners.

(4) The minutes of the meetings shall be recorded in the register specially kept for the purpose under signature of all the members present at the meeting.

(5) No prisoner or any of his relatives shall be informed of the Advisory Board's recommendation for the release of the prisoner except the orders of the Government for his release.

14. (1) The Superintendent shall submit the recommendations of the the Advisory Board together with the documents relating to the prisoners recommended for premature release to the Government through the Inspector General of Prisons. The Inspector General shall forward the papers to the Government with his remarks for orders.

(2) In case of Ex-Military prisoners, the recommendations of the Advisory Board will be submitted to the Government who will forward them to the Government of India for orders.

15. (1) Cases of prisoners sentenced to imprisonment for a period of three years or more and imprisonment for life which are recommended by the Advisory Board for premature release and ordered by the Government to be postponed for consideration at a further date shall not be placed by the Superintendent before the Advisory Board, again.

(2) If the case of a prisoner becomes due for review by the Advisory Board two months before the date on which the prisoners case is due for submission under rule 8, the Superintendent shall submit the case of the prisoner to the Government under rule 14 after it is reviewed by the Advisory Board.

(3) The Superintendent shall not place cases of prisoners submitted to the Government under rule 14 before the Advisory Board.

16. The Superintendent shall, before re-submitting cases of prisoners (being cases which have been ordered by the Government to be postponed for consideration) obtain fresh opinions of all the officers concerned again.

17. The Superintendent shall send to the Inspector General of Prisons information regarding co-accused of a prisoner alongwith papers for the Advisory Board in Form-VII in duplicate.

#### Review or suspension of Sentences by Government.

18. (1) Where a prisoner is suffering from illness, other than an acute infectious disease, of such nature or severity, that there is no hope of recovery, and it is considered desirable to allow him the comfort of dying out of prison, the Medical Officer shall send a Certificate in Form-VIII together with a detailed report of the case to the Superintendent.

(2) Where a Medical officer considers that any prisoner is in danger of death from illness other than acute infectious disease, and that the illness will be aggravated by keeping him in the prison and that the prisoners release is desirable he shall send a certificate to that effect together, with a detailed report of the case to the Superintendent.

(3) On receipt of the certificate, the Superintendent shall immediately address the prisoners relatives or friends if any and ascertain from them whether they are willing to look after the prisoner. If not may think fit.

(4) Where the unexpired period of sentence of a prisoner (not being a prisoner who has not been habitually associated with other prisoners for the commission of murder, dacoity or other heinous crimes), exceeds six months, the Superintendent shall enquire with the District Magistrate of the District in which the crime was committed whether there is any objection to the release of the prisoner on Medical grounds.

(5) The case shall then be forwarded to the Inspector General of Prisons with the following documents namely:—

- (a) Forwarding letter stating that the prisoner's relative or friends are willing to take care of him, if released;
- (b) The Nominal roll in duplicate;
- (c) A copy of warrant in duplicate;
- (d) A copy of Judgement;
- (e) The Medical case;
- (f) The Medical Officers Certificate;
- (g) The opinion of the District Magistrate;
- (h) The security bond signed by the prisoners relatives or friends (if taken) (when the bond is not taken then a remark that it will be taken at the time of release should be made in the note under which the case of the prisoner is forwarded to the Inspector General of Prisons).

(6) The Inspector General of Prisons shall forward all the documents to the Government for orders together with his remarks.— Before passing orders, the Government may, if it considers necessary, refers the case to the Standing Medical Board for opinion.

19. The Superintendent shall report the date of release of a prisoner to the Inspector General of Prisons together with the bond signed by the prisoner's relatives or friends.

20. *Females*:—Every case of a female convicted prisoner sentenced to death or imprisonment for life for infanticide (where the child is killed by the mother within six months of its birth) and cases of other deserving female prisoners sentenced to death, imprisonment for life or to any term of imprisonment shall be immediately reported by the Superintendent to the Inspector General of Prisons for orders of the Government with a view to the commutation or/and remission of the sentence passed upon such female prisoner. The following documents shall be sent along with the report:—

- (i) A copy of the Judgment;
- (ii) A copy of the Warrant;
- (iii) Nominal roll.

It shall be stated in the report as to whether the prisoner has preferred an appeal or not. The Superintendent shall also ascertain and report whether the prisoner can be admitted by any of the selected Homes and whether the prisoner is willing to reside in the Home and abide by the conditions set out.

21. The cases of female prisoners sentenced for causing miscarriage or abortion or cases in which step-children have been murdered should not be reported to the Government.

*Note*: Whether a female prisoner is transferred to a Home under Order of Government to pass the unexpired portion of her sentence there, the final date of release including the remission earned in Jail shall be communicated to the Officer in charge of the Home and the Inspector General of Prisons.

22. If a prisoner who is detained under sentence of imprisonment in default of furnishing security;

(a) is in danger of death from sickness not produced or aggravated by his wilful act and provided the unexpired term of his sentence does not exceed six months, or

(b) is in such state of health as, in the opinion of the Superintendent to render it highly unlikely that he will, during the period for which he is ordered to be detained commit a breach of the peace, or be not of good behaviour within the meaning of sections 107, 109 and 110 of the Code of Criminal Procedure, 1973, the Superintendent shall refer his case with full particulars to the District Magistrate of the District in which he was ordered to furnish security, who may in exercise of the discretion given to him by section 124 of the Code, release the prisoner without referring his case to the Government. All such release cases shall be reported immediately to the Inspector General of Prisons.

23. All rules relating to the review of sentences in force in any part of the State before the commencement of these rules which correspond to these rules shall stand hereby repealed.

#### FORM — I

( Rule — 6 )

#### SOCIAL HISTORY

1. Name of the prisoner:—
2. Number of the prisoner:—
3. Age:—
4. Sentence:—
5. Section:—
6. Habitual or Casual:—
7. Legal history and statement of the prisoner regarding present and previous crimes, if any:—

#### 8. Social History:—

- (a) Childhood:—
- (b) Family history:—
- (c) Health history:—
- (d) Neighbourhood:—
- (e) Educational background:—
- (f) Adolescence:—
- (g) Economic background:—
- (h) Employment history:—
- (i) Associations, championships, etc.:—
- (j) Habits, attitudes, etc.:—

#### 9. Personality (general impressions only):—

#### 10. Clues regarding sequence of criminal behaviour:—

11. Is he/she social or individual criminal? Is he/she ordinary criminal/criminal or a professional criminal/an organised criminal? Is his/her criminal act, behaviour of the moment or is it eruptive behaviour?
12. Is his/her maladjustment at the surface level or at deep level?
13. What are his/her defects and weaknesses?
14. What are his/her assets?
15. Which are the favourable/unfavourable points for his/her rehabilitation?

#### FORM — II

(Rule — 6)

#### INITIAL CLASSIFICATION SHEET

1. Prisons:—
2. Name of the prisoner:—
3. Number and age of the prisoner:—
4. Sentence and section:—
5. Recommendation about transfer if any:—
6. Gradation in custody  
(Maximum or medium accommodation in barrack or cell place of work, area of movement and activity, degree of supervision, type of restrictions, etc.)
7. Health and Medical matters:—
8. Individual problems of the inmates (Family Welfare, appeal, family adjustments, economic problems, land litigations, legal help, institutional adjustments, etc.):—
9. Work (Apprenticeship, training, allocation to productions unit, etc.):—
10. Education:—  
(Health, academic, social, vocational, moral and cultural education).
11. Social Adjustment:—  
(Recreation, groupwork activities, guidance and counselling, etc.):
12. Special Instructions to the institutions personnel, if any (Collections of more information:—  
Special precautions to be taken, if any, etc.):—
13. Date of review:—

Date of initial classification:—

(Chairman of the Classification Committee)

#### FORM - III

(Rule - 6)

#### PROGRESS REPORT

1. Number of prisoner:—
2. Name of the prisoner:—
3. Sentence:—
4. Date of initial classification:—
5. Physical and Mental Health:—
6. Work (Task, proficiency, quality, etc.):—

7. Attainment in Education:-
8. Interest taken in institutional activities (P. T.), Prayers, recreational and cultural activities:-
9. Discipline:-
10. Changes in habits, attitudes and behaviour:-
11. Attitudes towards Staff:-
12. Attitudes towards inmates:-
13. Prison offence and punishments:-
14. Individual problems, if any, about family land, litigation, business, etc. :-
15. General assessment about progress:-

FORM - V

(Rule - 6)

SUMMARY SHEET (REVIEW OF PRISONER)

1. Name of the prisoner:-
2. Register number of the prisoner:-
3. Age on sentence:-
4. Previous occupation:-
5. Offence:-
6. Sentence:-
7. Date of sentence:-
8. Court:-
9. Sentence undergone:-
10. Unexpired sentence:-
11. Remission:-
12. Summary of Superintendent's Report:-
13. Recommendations of commissioner of Police, Superintendent of Police:-
14. Recommendation of District Magistrate:-
15. Summary of Medical Report:-
16. Summary of report from after care agency (if any):-

Jailor  
Circle/Yard.

Recommendation of classification committee order of the Superintendent.

Date:-

(Superintendent of Prison)

FORM - IV  
(Rule - 6)

SUPERINTENDENT REPORT REGARDING REVIEW

1. Name of the prisoner:-
2. Number of the prisoner:-
3. Education:-
4. Performance of work:-
5. Vocational training:-
6. Recreational and cultural activities:-
7. Discipline:-
8. Interest in prison activities:-
9. Efforts:-
10. Group adjustability:-
11. Conduct:-
12. Attitude towards Government and Law:-
13. Attitude towards family and community:-
14. Record of release on Furlough:-
15. Record of release on Parole:-
16. Possibilities of employment and resettlements:-
17. Points favourable or unfavourable for rehabilitation:-
18. General remarks:-
19. Suggested conditions if recommendations for conditional release:-
20. Recommendations:-

FORM - VI

(Rule - 8)

1. Prisoner's and his father's or her husband's name:-
2. Prison where confined:-
3. Offence:-
4. Sentence:-
5. Date of sentence:-
6. Date(s) of release on Parole/Furlough:-
7. Antecedents and character of the prisoner:-
8. Remarks about conduct of the prisoner while out on Parole/furlough:-
9. Recommendations for or against the premature release of the prisoner:-  
  
(full justification to be given here in case release is not recommended inspite of the prisoner having good past record during releases on Parole/Furlough.):-
10. Conditions which need to be imposed if prisoner is to be released prematurely:-

(Signature of Superintendent)

(District Magistrate/District Superintendent  
of Police/commissioner of Police.)

FORM - VII  
(Rule - 17)

STATEMENT SHOWING THE PARTICULARS IN CASE OF CO-ACCUSED PRISONER'S NO. \_\_\_\_\_ AT PRESENT  
CONFINED IN THE \_\_\_\_\_

Name of the Co-accused	Sentence	Date of Sentence	Name of Jail where confined	If alive	If released	Date of release or date of execution, as case may be, with Govt. order.	Remission earned upto	Period spent in Jail upto	Jail punish- ment	Conduct	Remarks
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.

FORM - VIII

[ Rule - 18 (i) ]

MEDICAL CERTIFICATE

I hereby certify that convict No. \_\_\_\_\_ is  
suffering from \_\_\_\_\_  
\_\_\_\_\_ and that there is no hope of his recovery either in or  
outside the Prison. His illness is such as to in-capacitate him absolutely  
from the commission of further crime and has not been produced or

aggravated by any wilful act on the part of the prisoner. In my opinion  
he will probably die within \_\_\_\_\_ months:-

( \_\_\_\_\_ )  
Medical Officer

\_\_\_\_\_ Prison

By order and in the name of the Governor of Goa.  
A. Mascarenhas, Under Secretary (Home).  
Panaji, 24th September, 1997.